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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 CHARA CURTIS, et al.,

11 Plaintiffs,

12 v.

13 ILLUMINATION ARTS, INC., et al.,

14 Defendants.

CASE NO. C12-0991JLR

ORDER ON SANCTIONS

15 **I. INTRODUCTION**

16 On February 19, 2013, the court granted Plaintiffs Chara Curtis, Cynthia Aldrich
17 and Alfred Currier's motion to compel discovery and for sanctions against Defendants
18 Illumination Arts, Inc., Illumination Arts Publishing, LLC, John M. Thompson, and
19 Kimmie Lynn Thompson. (*See* 2/19/13 Order (Dkt. # 19).) In its order, the court
20 directed Plaintiffs to submit a statement within seven days of the date of the order, along
21 with appropriate documentation, concerning their reasonable expenses and attorney's fees
22 incurred in bringing the motion to compel discovery. (*Id.* at 8.) The court also directed

1 Defendants to file a response to Plaintiffs' statement concerning the reasonableness of
2 Plaintiffs' expenses and fees within an additional seven days. (*Id.*) Before the court is
3 Plaintiffs' timely-filed statement. (*See* Kruckeberg Decl. (Dkt. # 20).) Defendants failed
4 to file any response to Plaintiffs' statement as directed by the court. The court now
5 considers the specific amount of sanctions it will award to Plaintiffs based on its earlier
6 order granting Plaintiffs' motion to compel.

7 In addition, in its order granting Plaintiffs' motion to compel, the court also
8 ordered Defendants Illumination Arts, Inc. and Illumination Arts, LLC, to submit
9 corporate disclosure statements in compliance with Federal Rule of Civil Procedure 7.1
10 no later than March 1, 2013. (2/19/13 Order at 6, 8.) Illumination Arts, Inc. and
11 Illumination Arts, LLC, failed to comply with the court's order. Accordingly, the court
12 considers appropriate sanctions for this violation.

13 **II. ANALYSIS**

14 Federal Rule of Civil Procedure 37(d) permits a court to "order payment of the
15 reasonable expenses, including attorney's fees" caused by a party's failure to provide
16 discovery "unless the failure was substantially justified or other circumstances make an
17 award of expenses unjust." Fed. R. Civ. P. 37(d)(1)(A)(ii); Fed. R. Civ. P. 37(d)(3). In
18 addition, "the court *must* require the party failing to act, the attorney advising that party,
19 or both to pay the reasonable expenses, including attorney's fees, caused by the failure,
20 unless the failure was substantially justified or other circumstances make an award of
21 expenses unjust." Fed. R. Civ. P. 37(d)(3) (emphasis added). On February 19, 2013, the
22 court granted Plaintiffs' motion to compel discovery and for sanctions in the form of

1 Plaintiffs' reasonable expenses and attorney's fees incurred in bringing the motion.
2 (2/19/13 Order at 6-7, 8.)

3 On February 22, 2013, Plaintiffs' counsel, Kurt E. Kruckeberg, submitted a timely
4 statement concerning the expenses and attorney's fees incurred by Plaintiffs in bring their
5 motion to compel in the amount of \$5,594.00. (*See generally* Kruckeberg Decl.) Not
6 only did Defendants fail to file any response to Plaintiffs' motion to compel, they also
7 failed to file any response to Plaintiffs' statement concerning the attorney fees and other
8 expenses they incurred in bring their motion to compel—despite being instructed by the
9 court to do so. (*See* 2/19/13 Order at 8.) Under this court's Local Rules, "if a party fails
10 to file papers in opposition to a motion, such failure may be considered by the court as an
11 admission that the motion has merit." Local Rules W.D. Wash. CR 7(b)(2). Further, the
12 court has reviewed Mr. Kruckeberg's declaration and supporting documentation, the
13 court finds that Mr. Kruckeberg's request is reasonable. Accordingly, the court orders
14 both Defendants and their counsel to pay Mr. Kruckeberg's law firm, Hillis Clark Martin
15 & Peterson, P.S., reasonable attorney's fees and expenses of \$5,594.00 within 14 days of
16 the date of this order.

17 In addition, neither Illumination Arts, Inc. nor Illumination Arts, LLC, have filed a
18 corporate disclosure statement as required under Federal Rule of Civil Procedure 7.1 or
19 the court's Local Rule 7.1. *See* Fed. R. Civ. P. 7.1; W.D. Wash. Local Rules LCR 7.1.
20 On September 13, 2012, the court notified these defendants that they must file a corporate
21 disclosure statement. (*See* Dkt. Entries dated Sept. 13, 2012.) In addition, in its prior
22 order, the court specifically directed these defendants to file corporate disclosure

1 statements no later than March 1, 2013. (*See* 2/19/13 Order at 6, 8.) The court also
 2 warned that if they “fail[ed] . . . to provide the required corporate disclosure statements
 3 within the [stated] timeframe . . . , the court [would] consider the imposition of additional
 4 sanctions” (*Id.* at 7.) Both Illumination Arts, Inc., and Illumination Arts, LLC, are
 5 in violation of this order.

6 Defendants’ counsel’s failure to comply with this court’s order concerning the
 7 filing of corporate disclosure statements is unacceptable. A district judge must recuse
 8 himself or herself altogether from any case in which he or she owns stock in a corporate
 9 party or in a parent corporation of a corporate subsidiary. *See* 28 U.S.C. § 455(b)(4).
 10 Without a defendant’s corporate disclosure statement, the court cannot properly assess its
 11 compliance with this requirement. Under the Federal Rules of Civil Procedure, the court
 12 may “issue any just orders, including those authorized by Rule 37(b)(2)(A)(ii)-(vii), if a
 13 party or its attorney . . . fails to obey a . . . pretrial order.” Fed. R. Civ. P. 16(f)(1)(C).¹

14
 15 ¹ The possible sanctions listed in Rule 37(b)(2)(A) include:

16 (i) directing that the matters embraced in the order or other designated facts be
 17 taken as established for purposes of the action, as the prevailing party claims;

18 (ii) prohibiting the disobedient party from supporting or opposing designated
 claims or defenses, or from introducing designated matters in evidence;

19 (iii) striking pleadings in whole or in part;

20 (iv) staying further proceedings until the order is obeyed;

21 (v) dismissing the action or proceeding in whole or in part;

22 (vi) rendering a default judgment against the disobedient party; or

The court has already issued a warning concerning counsel's failure to file the required corporate disclosure statement. (*See* 2/19/13 Order at 7.) Accordingly, the court now ORDERS counsel for Illumination Arts, Inc. and Illumination Arts, LLC, to pay sanctions of \$500.00 to the clerk of court, representing \$250.00 for each corporate disclosure statement that he failed to file. Counsel shall pay these sanctions and file the required corporate disclosure statements within fourteen days of the date of this order. If counsel for Illumination Arts, Inc. and Illumination Arts, LLC, fails to comply with this order, then the court will consider imposing further sanctions including the entry of default judgments against these two defendants. *See* Fed. R. Civ. P. 16(f)(1)(C); Fed. R. Civ. P. 37(b)(2)(A)(vi).

III. CONCLUSION

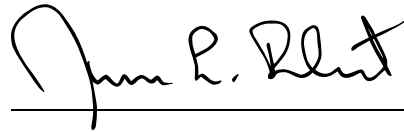
Based on the foregoing, the court ORDERS Defendants and Defendants' counsel to pay Mr. Kruckeberg's law firm, Hillis Clark Martin & Peterson, P.S., reasonable attorney's fees and expenses in the amount of \$5,594.00 within 14 days of the date of this order. In addition, counsel for Illumination Arts, Inc. and Illumination Arts, LLC, shall pay \$500.00 in sanctions to the clerk of court and file the required corporate disclosure statements for these defendants within fourteen days of the date of this order. If counsel for Illumination Arts, Inc. and Illumination Arts, LLC, fails to comply with this order and file the required corporate disclosure statements, then the court will consider imposing

(vii) treating as contempt of court the failure to obey any order except an order to submit to a physical or mental examination.

Fed. R. Civ. P. 37(b)(2)(A)(i)-(vii).

1 further sanctions and including the entry of default judgments against these two
2 defendants.

3 Dated this 19th day of March, 2013.

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7 JAMES L. ROBART
8 United States District Judge
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